

specification without markings as to the amended material. Entry of the substitute specification is respectfully requested and cancellation of the specification of record is herewith authorized.

Enclosed are also new drawings in duplicate in compliance with 37 CFR 1.84 and 1.165(b).

Enclosed is also a certified copy of the Official Gazette n°6/2000 of the Community Plant Variety Office referring to the publication of the European Community application 20001592, as requested by the Examiner.

No new matter has been added.

### **REMARKS**

It submitted that the new drawings submitted herewith are in compliance with the new rules related thereto.

The claim stands rejected under 35 USC 112, first and second paragraphs because the specification presents less than full, clear and complete botanical description of the plant and the characteristics which define same per se and which distinguish the plant from related known cultivars and antecedents. The Examiner listed a number of specific areas of concern in paragraphs A-R of the February 12, 2003 Office Action. Applicant appreciates the Examiner's review and encloses herewith a marked-up copy of the specification showing the matter being added to and the matter being deleted from the specification of record. Also enclosed is a clean copy without markings as to the amended material. The marked-up copy shows Applicant's amendments addressing the issues raised by the Examiner in paragraphs A-R, and respectfully submits that the description is as complete as is reasonably possible.

On pages 10 and 11 of the February 12, 2003 Office Action, the Examiner requests information as to whether the Applicant's subject Ageratum variety 'Agetis' was accessible to the public such that when combined with the October 27, 2000 printed publication, a 102(b) bar allegedly applies. The Examiner cites In re LeGrice 301 F.2d 929, 133 USPQ 365 (CCPA 1962) as

well as Ex parte Thomson, 24 USPQ2d 1618, 1620 (Bd. Pat. App. & Inter 1992) to support this position. Applicant does not necessarily agree with Examiner's position on this matter.

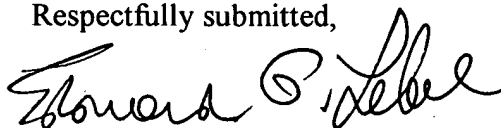
However, Applicant herewith complies with the Examiner's Request for information under 37 CFR 1.105 concerning the date the public had access to Ageratum variety 'Agetis'. Applicant has searched its records and does hereby state that Ageratum variety 'Agetis' was not available to the public in any country more than one year prior to the filing date of the present application.

No new matter has been added.

In view of the substitute specification and new drawings enclosed herewith, it is submitted that the application is now ready for allowance. If any additional information is needed, the Examiner is invited to call the undersigned at (919) 765-5117.

A Credit Card Payment Form is enclosed for the fee required for the two months extension of time. However, the Commissioner is also hereby authorized to charge any additional fees under 37 CFR §1.17, which may be required to maintain the pendency of the above application, to Deposit Account No. 50-1744 in the name of Syngenta Biotechnology, Inc.

Respectfully submitted,



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Date: July 7, 2003



60143P1

Part #3

## AGERATUM PLANT NAMED 'AGETIS'

**Latin name of the genus and species of the plant claimed***Ageratum houstonianum*

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**Variety denomination**'AGETIS'**Background of the new plant**

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The present invention comprises a new distinct cultivar of *Ageratum*, botanically known as *Ageratum houstonianum*. The new cultivar is propagated from cuttings resulting from the cross of 'Q343-2' and 'S570-2'. 'Q343-2' is a purple flowering *Ageratum* having a compact habit. 'Q343-2' is not commercially available and is not known by any synonyms.

15 'S570-2' is a blue and white flowering *Ageratum* having an upright habit. 'S570-2' is a selection from the variety 'Southern Cross'.

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Neither 'Q342-2' or 'S570-2' has been patented. As a result of this cross the present cultivar was created in 1997 in Enkhuizen, Netherlands and has been repeatedly asexually reproduced by cuttings in Enkhuizen, Netherlands, in Gilroy, USA, in Angers, France and in Sarrians, France over a three-year period. The distinctive characteristics of this new *Ageratum* are stable and reproduced true to type in successive generations of asexual reproduction. It takes 9 to 11 weeks to produce a finished plant, depending on the temperature.

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~~It has been found to retain its distinctive characteristics through successive propagations, and this novelty appears to be firmly fixed.~~

This new *Ageratum* plant is an annual in most climatical zones in the US, only in zones 9 and 10 is it a perennial plant.

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**Description of the drawing**

- This new Ageratum plant is illustrated by the accompanying photographic drawing which shows blooms, buds and foliage of the plant in full color, the color shown being as true as
5. can be reasonably obtained by conventional photographic procedures.

### **Description of the new cultivar**

The following detailed descriptions set forth the distinctive characteristics of this new Ageratum. The data which defines these characteristics were collected from asexual reproductions carried out in Enkhuizen, Netherlands. The plant history was taken on 20 weeks old plants, blossomed under natural light and artificial light in a greenhouse. Color readings were taken in the greenhouse under ambient light. Color references are primarily to the RHS Color Chart of the Royal Horticultural Society of London.

**Table 1**

10 **Differences between the new variety 'Agetis', its parents and a similar cultivar**

Character	'Agetis'	'Q343-2'	'S570-2'	'R116'
Flower color	<u>BlueViolet</u>	Purple	Blue and white	<u>BlueViolet</u>
Size of capitulum	16-21 mm	6-9 mm	16-21 mm	7-9 mm
Plant height	30-40 cm	20-25 cm	25-35 cm	20-25 cm
Branching	At every internode	At every internode	Not at every internode	At every internode

**The Plant**

Classification - Botanical	: <i>Ageratum houstonianum</i>
Parentage - Female parent	: A seedling named 'Q343-2' is one of our seedlings from our Q-generation of plants bred in 1987
5                                      - Pollen parent	: A seedling named 'S570-2' is one of our seedlings from our S-generation of plants bred in 1997
Growth habit	: Erect, well branched
Plant height	: 30-40 cm
Spreading area of plant	: 30-40 cm
10      Growth rate	: Vigorous
Strength	: Very good
Branching character	: Freely branching and lateral branching at every node
Blooming period	: Year round

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**The stem**

Diameter	: 2-2.5 mm
Shape	: Round
Color	: 145 B
20      Anthocyan pigmentation	: Absent
Length of internode the stem	: <u>5-15 cm</u> <del>30-42 mm, depending on the light where the plant is</del>

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 Propagated

Pubescence	: Slightly pubescent
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**The Foliage**

Phyllotaxis	: Opposite, decussate
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	Shape of blade:	:	<del>Ovate</del> Cordate
	Texture - Upper side	:	Slightly pubescent
	- Lower side	:	Slightly pubescent
	Venation	:	Reticulate
5	Leaf margin	:	Crenate
	Leaf base	:	Cordate
	Leaf apex	:	Rounded
	Length	:	27-63 mm
	Width	:	30-68 mm
10	Color - Upper side	:	Dark green 137A
	- Lower side	:	Medium green 143A
	Pubescence	:	Some pubescence is present
	Length of petiole	:	11-15 mm
	Color of petiole	:	Light green 145C
15	Petiole surface texture	:	Slightly pubescent

### **Inflorescence**

	Inflorescence	:	Compound umbel of capitula
	Length of peduncle	:	18-35 mm
20	<u>Diameter of peduncle</u>	:	<u>2 – 3 mm</u>
	Color of peduncle exposed to light	:	RHS 152B
	Color of peduncle not exposed to light	:	RHS 145A
	Length of pedicel	:	4-11 mm
	<u>Diameter of pedicel</u>	:	<u>1 – 2 mm</u>
25	Color of pedicel	:	RHS 145A
	<u>Number of inflorescence per plant</u>	:	<u>5 – 9 when ready for sale</u>
	<u>Diameter of umbel</u>	:	<u>4 – 6 cm</u>

- Depth of umbel : 2 – 5 cm
- Number of capitula per inflorescence: 10-19
- Number of ~~disc florets~~corolla per capitulum : 80-120
- Shape of corolla : actinomorph
- 5 Number of lobes : 5
- Length of corolla : 4 – 5 mm
- Diameter of corolla : 1 – 2 mm
- Color of corolla upper side : RHS 083D
- Color of corolla lower side : RHS 157D
- 10 Number of ~~bracts~~ phyllaries per capitulum : 23-25
- Length of ~~bract~~ phyllary : 4-5 mm
- Diameter of phyllary : 1-2 mm
- Color of upper side of phyllary : RHS 143A
- Color of lower side of phyllary : RHS 143B
- 15 Color of bracts : RHS 143A
- Diameter of capitulum at beginning  
of flowering : 7-8 mm
- Depth of capitulum : 6-8 mm
- Color of capitulum at beginning  
of flowering : RHS 083D
- 20 Diameter of capitulum at full  
flowering : 16-21 mm
- Color of capitulum at full flowering : RHS 086D
- Reproductive organs
- 25 Pollen : no pollen is produced
- Length of stigma and style : 8-9 mm
- Color of stigma : RHS 091A
- Fragrance : No fragrance



Lastingness of the bloom : The capitula of one umbel open over a period of  
5 to 6 weeks

**Seeds**

5 Seedset : No seedset has been observed

**Roots**

Type of roots : Fibrous. Roots start to grow on every part of the  
10 nodes.

**Physiological and ecological characteristics:**

Good tolerance to heat and cold, but no frost tolerance. Strong resistance to pests and  
diseases.

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**What is claimed is:**

1. A new and distinct variety of Ageratum plant, substantially as herein illustrated and described, characterized particularly as to novelty by big blue flowers, which appear early on the plant, which produces no seeds, and has a growing habit that is erect, well  
5 branched and vigorous.

**Abstract**

A new Ageratum plant particularly distinguished by its large blue flower, early flowering, nicely branched plant habit and vigorous growth.